

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FREDERICK JACKSON *et al.*,

Plaintiffs,

No. C 09-01016 WHA

v.

CITY OF PITTSBURG, *et al.*,

Defendants.

**ORDER REGARDING  
ATTORNEY'S FEES DISPUTE**

As previously held, plaintiff Frederick Jackson is entitled to recover attorney's fees. Plaintiff has submitted briefing on a requested award, and defendants have opposed. The following procedure will be used to determine the amount of an award herein.

Representatives of the parties with final-decision authority shall meet in person and confer to try to resolve all differences as to the amount. If no agreement is reached, the moving party must file and serve a declaration showing full compliance with this paragraph, explaining when, where, and who met, their decision authority, how long they met, what documents were reviewed together, and the principal points of disagreement. This must be done within **14 CALENDAR DAYS** of the date of this order.

If no agreement is reached, a special master shall be appointed. If the parties cannot agree on a special master, then the Court shall select a special master. The parties must so advise the Court on this within **14 CALENDAR DAYS**.

The special master shall have all the powers set forth in FRCP 53(c) and FRCP 54(d)(2)(D). The parties shall provide the special master with copies of all motion

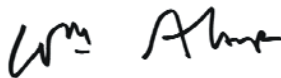
1 papers and other documents relevant to this dispute. The special master shall review the briefs  
2 and declarations by the parties on the pending motion, hear argument, and then determine a  
3 reasonable amount to award, including any fees on fees. The special master shall also  
4 determine the extent to which any discovery should be permitted — with the caution that further  
5 discovery should be the exception and not the rule. The special master shall then prepare and  
6 file a report on recommended findings and amount.

7 Absent any supplementation allowed by the special master, the submissions already  
8 made shall be the entire record for the motion. Any further submissions for the special master's  
9 use should not be filed with the Court. If objections are later made to the special master's  
10 report, the objecting party must file a declaration submitting to the Court a complete appendix  
11 of relevant communications with the special master.

12 The Court will allocate the fees of the special master in a fair and reasonable manner,  
13 taking into account the reasonableness of the parties' respective positions and the special  
14 master's recommendation in this regard. If the movant must pay, then the special master's  
15 compensation shall be *deducted* from the attorney's fee award. If the opposing party must pay  
16 the special master, then it shall pay the special master *and* pay the award. The Court will,  
17 however, reserve final judgment on allocation of the expense of the special master until a final  
18 determination of the fee issue. A final award shall then be entered.

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20 **IT IS SO ORDERED.**

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22 Dated: January 3, 2011.

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25 WILLIAM ALSUP  
26 UNITED STATES DISTRICT JUDGE  
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